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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH

NORTHWEST ASTHMA ALLERGY  
CENTER, P.C., an Oregon professional  
corporation,

Plaintiff,

v.

ALLSCRIPTS-MISYS, LLC, a North  
Carolina limited liability company,

Defendant.

Case No.

**1108-10282**

COMPLAINT FOR FRAUD,  
MISREPRESENTATION AND  
UNFAIR TRADE PRACTICES ACT

(Jury Trial Requested)

(Prayer Amount: \$100,000.00)

Plaintiff alleges:

1.

Plaintiff Northwest Asthma Allergy Center, P.C. ("Northwest") is a professional corporation incorporated in the State of Oregon. The principal owner of Northwest is George Allen, a medical doctor who assists children with serious asthma and allergy conditions.

2.

Defendant Allscripts-Misys Healthcare Solutions, Inc. ("Allscripts") is a North Carolina limited liability company which has its principal place of business in Wake County, North Carolina.

1 3.

2 On or about August 23, 2010, Northwest entered into a contract with Allscripts for the  
3 purchase of, and license to use, certain medical software to assist with the management of  
4 medical records (the "Contract"), referred to as Allscripts-Misys Myway 8.6 (the "Software").

5 4.

6 To induce Northwest and other consumers into purchasing the Software, Allscripts  
7 represented that the Software was certified by the Certification Commission for Health  
8 Information Technology ("CCHIT") as a complete EIIR (such that Northwest would qualify for  
9 government incentives for implementing electronic health records). CCHIT is a private not-for-  
10 profit organization and is federally recognized as a certification body for electronic health  
11 records.

12 5.

13 Allscripts represented that a health care provider such as Northwest which utilized the  
14 Software would be in compliance with Federal HIPAA regulations. HIPAA compliance is  
15 critical, in that HIPAA mandates the confidentiality of a patient's medical records.

16 6.

17 Northwest relied on Allscripts' representations that the Software was CCHIT certified  
18 and its utilization would achieve HIPAA compliance. Northwest would not have purchased the  
19 Software without these representations.

20 7.

21 In order to purchase the Software, Northwest entered into a financing agreement with  
22 US Bank for \$90,000.00 and, in order to use the Software, entered into a monthly maintenance  
23 contract with US Bank for 60 months at \$1,353.34 per month and an offsite records  
24 maintenance contract with ASP for 12 months at \$200 per month (collectively the "Additional  
25 Contracts").

26

8.

After entering into the Contract and the Additional Contracts, Northwest learned that the Software was neither certified by CCHIT nor did its use cause Northwest to achieve HIPAA compliance. The Software also has significant functional defects and is difficult to use.

9.

Allscripts intended that Northwest rely upon these false representations and Northwest did in fact rely upon these representations in purchasing the Software and entering into the Additional Contracts. Allscripts knew that its representations were false.

10.

As a result, Northwest has been forced to purchase additional medical record management software.

#### FIRST CLAIM FOR RELIEF

(Fraud)

11.

Northwest realleges paragraph 1-10 as if fully set forth herein.

12.

Allscripts made false representations to Northwest with the intent that Northwest should rely thereon. Allscripts represented in marketing materials, on its website, on the Software's log-in screen, and on the Software's packaging, that the Software was certified by CCHIT. More specifically, Allscripts provided Northwest with numerous marketing materials that stated: "Each of our CCHIT-certified solutions is designed with you in mind" and "All of our EHRs already meet the rigorous CCHIT requirements." Allscripts repeated these misrepresentations in person. Specifically, on January 26, 2009, Allscripts, through its agent Tyler Hollist, represented that the Software was CCHIT certified by both presenting printed materials that contained these misrepresentations and also by stating that Northwest should switch from its current software to Allscripts' Software because the latter was CCHIT certified. This

1 representation was made at Northwest's clinic in Vancouver, Washington. Similarly, Allscripts,  
2 in August of 2010, made the same representation through its agent Nancy England at  
3 Northwest's clinic in Vancouver. Ms. England presented preprinted marketing materials to  
4 Dr. Allen containing these representations.

5 13.

6 Allscripts knew that these representations were false and were made with the intent to  
7 deceive and in complete disregard of Northwest's rights.

8 14.

9 Northwest was deceived by Allscripts' representations in purchasing the Software and in  
10 entering into the Additional Contracts.

11 15.

12 As a result of Allscripts' actions, Northwest has been damaged in an amount in excess of  
13 \$100,000.00.

14 **SECOND CLAIM FOR RELIEF**

15 (Intentional Misrepresentation)

16 16.

17 Northwest realleges paragraphs 1-15 as though fully set forth herein.

18 17.

19 Allscripts' actions constitute intentional misrepresentation, causing Northwest to suffer  
20 damages in an amount in excess of \$100,000.00. Allscripts' misrepresentations were made  
21 willfully.

22 **THIRD CLAIM FOR RELIEF**

23 (Negligent Misrepresentation)

24 18.

25 Northwest realleges paragraphs 1 through 17 as though fully set forth herein.

26

19.

In the alternative, Allscripts was negligent in making the representation on which Northwest relied.

20.

Northwest reasonably relied on Allscripts' misrepresentations to its detriment. Northwest has been damaged by the misrepresentations of Allscripts in an amount in excess of \$100,000.00.

#### FOURTH CLAIM FOR RELIEF

(Unfair Trade Practices)

21.

Northwest realleges paragraphs 1-20 as if fully set forth herein.

22.

Allscripts' conduct was in commerce as that term is interpreted pursuant to N.C. Gen. Stat. § 75-1.1 *et seq.* (the North Carolina Unfair Trade Practice Act).

23.

Allscripts' conduct as described herein had the tendency or capacity to mislead or create the likelihood of deception.

24.

As a result of Allscripts' conduct, Northwest has been damaged in an amount in excess of \$100,000.00.

25.

Northwest is entitled to recover treble damages, their reasonable attorney fees, costs and expenses.

26.

Northwest hereby gives notice that they intend to amend their complaint to allege punitive damages.

1 WHEREFORE, Northwest prays for judgment as follows:

2 1. On Northwest's First Claim for Relief for Fraud:

- 3 a. Actual damages in an amount in excess of \$100,000.00;
- 4 b. Costs and expenses incurred herein.
- 5 c. Punitive damages.

6 2. On Northwest's Second Claim for Relief for Misrepresentation:

- 7 a. Actual damages in an amount in excess of \$100,000.00.
- 8 b. Costs and expenses incurred herein.

9 3. On Northwest's Third Claim for Negligent Misrepresentation:


- 10 a. Actual damages in an amount in excess of \$100,000.00
- 11 b. Costs and expenses incurred herein.

12 4. On Northwest's Fourth Claim for Relief for Unlawful Trade Practices:

- 13 a. Actual damages in an amount in excess of \$100,000.00;
- 14 b. Treble damages;
- 15 c. Reasonable attorney fees, costs and expenses; and
- 16 d. Costs and expenses incurred herein.

17 Dated August 6, 2011.

18 DUNN CARNEY ALLEN HIGGINS & TONGUE LLP

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